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Human rights situations that require the Council's attention

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[19 February 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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HUMAN RIGHTS COUNCIL MUST ADDRESS DRAMATIC DETERIORATION OF HUMAN RIGHTS SITUATION IN MYANMAR

The situation in Myanmar has deteriorated dramatically in the last year, and across the country the military has committed wide-ranging human rights violations. Amnesty International and others have documented crimes against humanity committed by the security forces against the Rohingya population in Rakhine state. In northern Myanmar, we have documented war crimes and violations of international human rights law committed by the military against ethnic minority civilians. Those working to document and expose military abuses have faced arrest, detention, and intimidation.

The severity of the situation cannot be understated. Myanmar today increasingly – and alarmingly – resembles the Myanmar of old. The civilian government, while holding no formal power over the military, has failed to curb the violence, and instead has often fostered rather than challenged impunity and discrimination. The country risks regressing still further unless there is a major change in course. This not only necessitates a fundamental change from Myanmar's civilian and military authorities, but also much more effective action from the international community. At the upcoming session, the UN Human Rights Council ("the Council") must send a clear message to Myanmar's leaders that human rights violations – both past and ongoing – will not go unpunished.

THE SITUATION IN RAKHINE STATE

Rakhine State has plunged even further into crisis after security forces unleashed a campaign of violence against the Rohingya population living in the northern part of the state, following co-ordinated attacks by the armed group the Arakan Rohingya Salvation Army (ARSA) on 25 August 2017. Since then, security forces have killed Rohingya women, men and children; raped women and girls; laid landmines; and burned hundreds of Rohingya villages, acts which amount to crimes against humanity.[1] More than 680,000 Rohingya have fled to Bangladesh, and even today, security forces continue their efforts to drive the remaining population out of the country though forced starvation and threats of further violence.[2] Rohingya who remain in Rakhine State continue to live under a system amounting to apartheid, which severely restricts virtually every aspect of their lives and segregates them from the rest of society.[3] While their right to return home is inalienable, until this system is dismantled, safe and dignified returns are not possible, and plans for any organized repatriation are woefully premature.

The Myanmar authorities have proven both unable and unwilling to adequately investigate human rights violations against the Rohingya, let alone bring perpetrators to justice. In November 2017, an army investigation team claimed to have found no evidence of wrongdoing by security forces in northern Rakhine State.[4] The authorities have also failed to take effective action to address the systematic racial and religious discrimination which forms the backdrop of the current crisis.

Other communities living in Rakhine State also suffer human rights violations at the hands of the security forces, and it is essential that impunity is not allowed to prevail. In particular, the police killing of seven ethnic Rakhine protesters in

1 Amnesty International, *"My world is finished": Rohingya targeted by crimes against humanity in Myanmar* (ASA 16/7288/2017), 18 October 2017.

2 Amnesty International, *Myanmar forces starve, abduct and rob Rohingya, as ethnic cleansing continues* (Index: ASA 16/7835/2018, 7 February 2018.

3 Amnesty International, *"Caged without a Roof": Apartheid in Myanmar's Rakhine State* (Index: ASA/16/7436/2017), 21 November 2017.

4 "Information released by the Tatmadaw True News Information Team on the findings of the Investigation Team in connection with the performances of the security troops during the terrorist attacks in Maungtaw region, Rakhine State", 13 November 2018.

Mrauk-U town in January must be independently and impartially investigated and those responsible brought to justice.5

ARMED CONFLICTS IN NORTHERN MYANMAR

While significant international attention has focused on the situation in Rakhine State, there are also ongoing violations against other ethnic minorities, in particular in Kachin and northern Shan States, where armed conflicts between the army and ethnic armed groups continue. As is too often the case, civilians have borne the brunt of conflict. The Myanmar military has committed wide-ranging violations against ethnic minority civilians, including extrajudicial executions, enforced disappearances, indiscriminate shelling of civilian areas, arbitrary arrest, torture, and forced labour. Ethnic armed groups have also committed human rights abuses including killings, abduction and forcible recruitment.6 There are deeply worrying reports of further civilian casualties and displacement during increased fighting in Kachin State since the start of 2018.

The conflicts in northern Myanmar have displaced more than 100,000 civilians. The civilian and military authorities have exacerbated civilian suffering by maintaining severe restrictions on humanitarian access, in particular to areas controlled by ethnic armed groups.

RESTRICTIONS ON FREEDOM OF EXPESSION

The last year has seen an alarming erosion in the space for a free media in Myanmar. Journalists have faced increased intimidation, and several have been arrested and prosecuted in connection with their work.7 Those who help expose human rights violations also risk reprisals, including arrest and prosecution.8
Threats to media workers occur in a wider context where the rights to freedom of expression, association and peaceful assembly remain severely restricted. To date, the civilian-led administration has failed to make meaningful progress on repealing or amending repressive laws, including those identified by the Special Rapporteur on the situation of human rights in Myanmar.9

COOPERATION WITH UN HUMAN RIGHTS MECHANISMS

In light of the scale of the human rights crisis in the country, Amnesty International is deeply troubled by the Myanmar government's increasing non-cooperation with UN human rights mechanisms, most recently its decision in December 2017 to bar the Special Rapporteur on the situation of human rights in Myanmar from the country.10 The Council must send a strong message that any obstruction of the Special Rapporteur from discharging her mandate is unacceptable.

The decision to bar the Special Rapporteur comes amidst increasing hostility to the UN, in particular Myanmar's continued rejection of the UN Fact-Finding Mission, and its ongoing lack of cooperation with the Office of the High Commissioner for Human Rights. The Council should make clear that unless the Government of Myanmar cooperates with existing UN human rights mechanisms in the coming months, it will seek additional means of addressing the situation.

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5 Amnesty International, *Myanmar: Investigate police killings of Rakhine State protesters*, 17 January 2018, https://www.amnesty.org/en/latest/news/2018/01/myanmar-investigate-police-killings-of-rakhine-state-protesters/

6 Amnesty International, *"All the civilians suffer": Conflict, displacement and abuse in northern Myanmar* (ASA 16/6429/2017), 14 June 2017.

7 Amnesty International, *Two journalists face up to 14 years in prison* (Index: ASA 16/7698/2018), 10 January 2018.

8 Amnesty International, *Kachin pastor sentenced to four years in prison* (Index: ASA 16/7554/2017), 5 December 2017.

9 *Report of the Special Rapporteur on the situation of human rights in Myanmar*, UN Doc. A/HRC/31/71, 18 March 2016, Annex I: Legislation in need of reform in Myanmar.

10 *The Irrawaddy*, "Myanmar Ends Cooperation with UN Rights Rapporteur"", 20 December 2017, https://www.irrawaddy.com/news/burma/myanmar-ends-cooperation-un-rights-rapporteur.html

Amnesty International recommends that the Human Rights Council:

- Extend the mandate of the Special Rapporteur and urge the government to cooperate fully with her, including by granting full and unfettered access to all parts of the country;
- Call on the Government of Myanmar to cooperate fully with the Fact-Finding Mission, including by allowing its members full and unfettered access to all parts of the country and to all persons it wishes to interview.
- Ensure that the Fact-Finding Mission has adequate resources to undertake its mandate;
- Request the Fact-Finding Mission, as part of its final report and in line with its mandate, present recommendations for accountability for crimes against humanity, war crimes, and serious human rights violations and ensure that the final report is transmitted the UN Security Council and General Assembly.

Amnesty International recommends that the Council calls on the Government of Myanmar to:

- Immediately cease all violations of international human rights and humanitarian law, in particular in Rakhine, Kachin and northern Shan States;
- Provide humanitarian organizations with sustained and unimpeded access to all populations in need of assistance;
- Take immediate and effective action to address the longstanding discrimination against Rohingya and other Muslims in Rakhine State, including by ensuring that the right to a nationality is granted free of discrimination, and by removing arbitrary and discriminatory restrictions on freedom of movement as well as access to healthcare, education and other services;
- Condemn all incitement to racial or religious hatred and take concrete steps to end it;
- Release immediately and unconditionally all prisoners of conscience and drop charges against all those facing criminal proceedings solely for the peaceful exercise of their human rights;
- Repeal or amend all laws that violate the human rights to freedom of expression, peaceful assembly and association, in compliance with international human rights law and standards;
- Ensure accountability for human rights violations committed by Myanmar's security forces and suspend from active duty military or police personnel suspected of involvement in violations of international law pending the completion of investigations;
- Cooperate fully with the Special Rapporteur and Fact-Finding Mission, ensuring they have full and sustained access to all parts of the country;
- Facilitate the establishment of an OHCHR country office, able to operate throughout Myanmar with a full mandate to promote and protect human rights.